

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1017
93RD GENERAL ASSEMBLY
2006

5039S.03T

AN ACT

To repeal sections 30.750, 196.931, 196.949, and 196.951, RSMo, and to enact in lieu thereof six new sections relating to agricultural programs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 30.750, 196.931, 196.949, and 196.951, RSMo, are
2 repealed and six new sections enacted in lieu thereof, to be known as sections
3 30.750, 196.931, 196.949, 196.951, 348.500, and 348.505, to read as follows:

30.750. As used in sections 30.750 to 30.767, the following terms mean:

2 (1) "Eligible agribusiness", a person engaged in the processing or adding
3 of value to agricultural products produced in Missouri;

4 (2) "Eligible beginning farmer",

5 (a) For any beginning farmer who seeks to participate in the linked
6 deposit program alone, a farmer who:

7 a. Is a Missouri resident;

8 b. Wishes to borrow for a farm operation located in Missouri;

9 c. Is at least eighteen years old; and

10 d. In the preceding five years has not owned, either directly or indirectly,
11 farm land greater than fifty percent of the average size farm in the county where
12 the proposed farm operation is located or farm land with an appraised value
13 greater than four hundred fifty thousand dollars.

14 A farmer who qualifies as an eligible farmer under this provision may utilize the
15 proceeds of a linked deposit loan to purchase agricultural land, farm buildings,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 new and used farm equipment, livestock and working capital;

17 (b) For any beginning farmer who is participating in both the linked
18 deposit program and the beginning farmer loan program administered by the
19 Missouri agriculture and small business development authority, a farmer who:

20 a. Qualifies under the definition of a beginning farmer utilized for
21 eligibility for federal tax-exempt financing, including the limitations on the use
22 of loan proceeds; and

23 b. Meets all other requirements established by the Missouri agriculture
24 and small business development authority;

25 (3) "Eligible facility borrower", a borrower qualified under section 30.860
26 to apply for a reduced-rate loan under sections 30.750 to 30.767;

27 (4) "Eligible farming operation", any person engaged in farming in an
28 authorized farm corporation, family farm, or family farm corporation as defined
29 in section 350.010, RSMo, that has all of the following characteristics:

30 (a) Is headquartered in this state;

31 (b) Maintains offices, operating facilities, or farming operations and
32 transacts business in this state;

33 (c) Employs less than ten employees;

34 (d) Is organized for profit;

35 (e) Possesses not more than sixty percent equity, where "percent equity"
36 is defined as total assets minus total liabilities divided by total assets, except
37 that an otherwise eligible farming operation applying for a loan for the purpose
38 of installing or improving a waste management practice in order to comply with
39 environmental protection regulations shall be exempt from this eligibility
40 requirement;

41 (5) "Eligible higher education institution", any approved public or private
42 institution as defined in section 173.205, RSMo;

43 (6) "Eligible job enhancement business", a new, existing, or expanding
44 firm operating in Missouri, **or as a condition of accepting the linked**
45 **deposit, will locate a facility or office in Missouri associated with said**
46 **linked deposit**, which employs ten or more employees **in Missouri** on a yearly
47 average and which, as nearly as possible, is able to establish or retain at least
48 one job in Missouri for each [twenty-five] **fifty** thousand dollars received from a
49 linked deposit loan;

50 (7) "Eligible lending institution", a financial institution that is eligible to
51 make commercial or agricultural or student loans or discount or purchase such

52 loans, is a public depository of state funds or obtains its funds through the
53 issuance of obligations, either directly or through a related entity, eligible for the
54 placement of state funds under the provisions of section 15, article IV,
55 Constitution of Missouri, and agrees to participate in the linked deposit program;

56 (8) "Eligible livestock operation", any person engaged in production of
57 livestock or poultry in an authorized farm corporation, family farm, or family
58 farm corporation as defined in section 350.010, RSMo;

59 (9) "Eligible marketing enterprise", a business enterprise operating in this
60 state which is in the process of marketing its goods, products or services within
61 or outside of this state or overseas, which marketing is designed to increase
62 manufacturing, transportation, mining, communications, or other enterprises in
63 this state, which has proposed its marketing plan and strategy to the department
64 of economic development and which plan and strategy has been approved by the
65 department for purposes of eligibility pursuant to sections 30.750 to 30.767. Such
66 business enterprise shall conform to the characteristics of paragraphs (a), (b) and
67 (d) of subdivision (4) of this section and also employ less than twenty-five
68 employees;

69 (10) "Eligible multitenant development enterprise", a new enterprise that
70 develops multitenant space for targeted industries as determined by the
71 department of economic development and approved by the department for the
72 purposes of eligibility pursuant to sections 30.750 to 30.767;

73 (11) "Eligible residential property developer", an individual who purchases
74 and develops a residential structure of either two or four units, if such residential
75 property developer uses and agrees to continue to use, for at least the five years
76 immediately following the date of issuance of the linked deposit loan, one of the
77 units as his principal residence or if such person's principal residence is located
78 within one-half mile from the developed structure and such person agrees to
79 maintain the principal residence within one-half mile of the developed structure
80 for at least the five years immediately following the date of issuance of the linked
81 deposit loan;

82 (12) "Eligible residential property owner", a person, firm or corporation
83 who purchases, develops or rehabilitates a multifamily residential structure;

84 (13) "Eligible small business", a person engaged in an activity with the
85 purpose of obtaining, directly or indirectly, a gain, benefit or advantage and
86 which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision
87 (4) of this section, and also employs less than twenty-five employees;

88 (14) "Eligible student borrower", any person attending, or the parent of
89 a dependent undergraduate attending, an eligible higher education institution in
90 Missouri who may or may not qualify for need-based student financial aid
91 calculated by the federal analysis called Congressional Methodology Formula
92 pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of
93 1986);

94 (15) "Eligible water supply system", a water system which serves fewer
95 than fifty thousand persons and which is owned and operated by:

96 (a) A public water supply district established pursuant to chapter 247,
97 RSMo; or

98 (b) A municipality or other political subdivision; or

99 (c) A water corporation;

100 and which is certified by the department of natural resources in accordance with
101 its rules and regulations to have suffered a significant decrease in its capacity to
102 meet its service needs as a result of drought;

103 (16) "Farming", using or cultivating land for the production of agricultural
104 crops, livestock or livestock products, forest products, poultry or poultry products,
105 milk or dairy products, or fruit or other horticultural products;

106 (17) "Linked deposit", a certificate of deposit, or in the case of production
107 credit associations, the subscription or purchase outright of obligations described
108 in section 15, article IV, Constitution of Missouri, placed by the state treasurer
109 with an eligible lending institution at rates otherwise provided by law in section
110 30.758, provided the institution agrees to lend the value of such deposit,
111 according to the deposit agreement provided in sections 30.750 to 30.767, to
112 eligible small businesses, farming operations, eligible job enhancement
113 businesses, eligible marketing enterprises, eligible residential property
114 developers, eligible residential property owners, eligible agribusinesses, eligible
115 beginning farmers, eligible livestock operations, eligible student borrowers,
116 eligible facility borrowers, or eligible water supply systems at below the present
117 borrowing rate applicable to each small business, farming operation, eligible job
118 enhancement business, eligible marketing enterprise, eligible residential property
119 developer, eligible residential property owner, eligible agribusiness, eligible
120 beginning farmer, eligible livestock operation, eligible student borrower, or supply
121 system at the time of the deposit of state funds in the institution;

122 (18) "Market rate", the interest rate tied to federal government securities
123 and more specifically described in subsection 4 of section 30.260;

124 (19) "Water corporation", as such term is defined in section 386.020,
125 RSMo;

126 (20) "Water system", as such term is defined in section 386.020, RSMo.
196.931. As used in sections 196.931 to 196.953 unless the context clearly
2 indicates otherwise, the following words and terms shall have the meaning
3 indicated:

4 (1) "Grade A pasteurized milk", grade A raw milk for pasteurization which
5 has been pasteurized, cooled, and placed in the final container in a milk plant
6 and conforming with the sanitation and bacteriological standards authorized by
7 sections 196.931 to 196.953 and regulations promulgated thereunder;

8 (2) "Grade A raw milk for pasteurization", raw milk for pasteurization
9 from producer dairies and conforming with all of the sanitation and
10 bacteriological standards authorized by sections 196.931 to 196.953 and
11 regulations which are promulgated thereunder;

12 (3) "Graded fluid milk and fluid milk products", milk products include
13 cream, light cream, coffee cream, table cream, whipping cream, light whipping
14 cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream,
15 whipped coffee cream, whipped table cream, sour cream, cultured sour cream,
16 half-and-half, sour half-and-half, cultured half-and-half, reconstituted or
17 recombined milk and milk products, concentrated milk, concentrated milk
18 products, skim milk, skimmed milk, lowfat milk, fortified milk and milk products,
19 vitamin D milk and milk products, homogenized milk, flavored milk or milk
20 products, eggnog, eggnog flavored milk, eggnog flavored lowfat milk, buttermilk,
21 cultured buttermilk, cultured milk, cultured whole milk buttermilk, and acidified
22 milk and milk products, and other fluid milk and fluid milk products so declared
23 by the board which are sold, offered for sale, exposed for sale, delivered or
24 advertised as graded milk and milk products;

25 (4) "Manufacturing raw milk", milk that does not meet the requirements
26 of grade A raw milk for pasteurization as defined in sections 196.931 to 196.959;

27 (5) "Milk plant", any place, premises or establishment where graded fluid
28 milk or fluid milk products are collected, handled, processed, stored, bottled,
29 pasteurized and prepared for distribution, except an establishment where graded
30 fluid milk products are sold at retail as purchased from a milk plant;

31 (6) "Milk plant operator", any person, firm, corporation or association
32 operating any milk plant;

33 (7) "Milk producer", any person who operates a dairy farm and provides,

34 sells, or offers milk for sale to a milk plant, receiving station, or transfer station;
35 (8) "Official rating agency", the state [department of health and senior
36 services] **milk board**;
37 (9) "Official rating survey", the survey conducted by the official state
38 rating agency, as required by sections 196.931 to 196.953;
39 (10) "Person" shall mean an individual or individuals, or a firm,
40 partnership, company, corporation, trustee, or association;
41 (11) "Political subdivision", any municipality, city, incorporated town,
42 village, county, township, district or authority, or any portion or combination of
43 two or more thereof;
44 (12) "State department of agriculture", the department of agriculture of
45 Missouri;
46 (13) "State department of health and senior services", the department of
47 health and senior services of Missouri;
48 (14) "State milk board", an appointed state agency functioning as
49 administrator of "state milk inspection"; and
50 (15) "State milk inspection", the services of inspection, regulation,
51 grading, and program evaluation of fluid milk and fluid milk products by agents,
52 representatives or employees of the state milk board under the terms and
53 provisions of sections 196.931 to 196.959 and regulations adopted to regulate the
54 production, transportation, processing, manufacture, distribution and sale of
55 graded fluid milk and fluid milk products.

196.949. Graded fluid milk or fluid milk products not inspected under
2 state milk inspection may be sold, offered for sale, exposed for sale, and delivered
3 in the state of Missouri, or any municipality thereof, if approved [jointly] by the
4 [director of the department of agriculture and the director of the department of
5 health and senior services] **state milk board** as provided for by regulations
6 adopted [jointly] by the [two agencies and the] state milk board; provided that,
7 the graded fluid milk or fluid milk products from other states shall be produced
8 and processed under the supervision of a duly authorized governmental agency
9 operating under the provisions of an ordinance, statute, or regulation
10 substantially equivalent to the regulations promulgated and adopted by the state
11 milk board and enforced with equal effectiveness as determined by an official
12 rating survey, and products meet applicable temperature, bacteriological and
13 composition standards when sampled on arrival at point of retail sale. Nothing
14 in this section shall prohibit the state or local health officer from satisfying

15 himself **or herself** that the governmental agency having jurisdiction over the
16 production and processing is properly enforcing such provisions.

196.951. The [department of health and senior services] **state milk**
2 **board** is hereby designated as the official rating agency. At least [annually]
3 **biannually**, or as often as necessary, the [department of health and senior
4 services] **state milk board** shall make an official rating survey to determine if
5 there is appropriate and effective enforcement of the standards and provisions of
6 sections 196.931 through 196.953 and such other surveys as may be necessary to
7 assure enforcement of sections 196.931 through 196.953 throughout the
8 state. Unsatisfactory conditions shall be deemed to exist when a rating below the
9 minimum acceptable rating established by the [director of the department of
10 agriculture and the director of the department of health and senior services]
11 **state milk board** is found by the official rating survey. Violation of sections
12 196.931 through 196.953 shall be deemed to exist when the unsatisfactory
13 conditions causing the rating to fall below the minimum acceptable rating are not
14 corrected within ninety days. The minimum acceptable rating shall be ninety
15 percent for the pasteurized milk supply as determined by rating methods
16 recognized by the United States Public Health Service Food and Drug
17 Administration. The [director of the department of agriculture and the director
18 of the department of health and senior services] **state milk board** shall [jointly]
19 promulgate and adopt a single method of making official rating surveys of all
20 milksheds. Official surveys shall be made by a method substantially equivalent
21 to procedures outlined in United States Governmental Printing Office Publication
22 Number 678, titled "Methods of Making Sanitation Ratings of Milksheds".

348.500. 1. This section shall be known and may be cited as the
2 "Family Farms Act".

3 2. As used in this section, "small farmer" means a farmer who is
4 a Missouri resident and who has less than two hundred fifty thousand
5 dollars in gross sales per year.

6 3. The agricultural and small business development authority
7 shall establish a family farm breeding livestock loan program for small
8 farmers for the purchase of beef cattle, dairy cattle, sheep and goats,
9 and swine only.

10 4. To participate in the loan program, a small farmer shall first
11 obtain approval for a family farm livestock loan from a lender as
12 defined in section 348.015. Each small farmer shall be eligible for only

13 one family farm livestock loan per family and for only one type of
14 livestock.

15 5. The maximum amount of the family farm livestock loan for
16 each type of livestock shall be as follows:

- 17 (1) Seventy-five thousand dollars for beef cattle;
- 18 (2) Seventy-five thousand dollars for dairy cattle;
- 19 (3) Thirty-five thousand dollars for swine; and
- 20 (4) Thirty thousand dollars for sheep and goats.

21 6. Eligible borrowers under the program:

22 (1) Shall use the proceeds of the family farm loan to acquire
23 breeding livestock;

24 (2) Shall not finance more than ninety percent of the anticipated
25 cost of the purchase of such livestock through the family farm livestock
26 loan; and

27 (3) Shall not be charged interest by the lender, as defined in
28 section 348.015, for the first year of the qualified family farm livestock
29 loan.

30 7. Upon approval of the family farm livestock loan by a lender
31 under subsection 4 of this section, the loan shall be submitted for
32 approval by the agriculture and small business development
33 authority. The authority shall promulgate rules establishing eligibility
34 under this section, taking into consideration:

35 (1) The eligible borrower's ability to repay the family farm
36 livestock loan;

37 (2) The general economic conditions of the area in which the
38 farm is located;

39 (3) The prospect of a financial return for the small farmer for the
40 type of livestock for which the family farm livestock loan is sought; and

41 (4) Such other factors as the authority may establish.

42 8. For eligible borrowers participating in the program, the
43 authority shall be responsible for reviewing the purchase price of any
44 livestock to be purchased by an eligible borrower under the program
45 to determine whether the price to be paid is appropriate for the type
46 of livestock purchased. The authority may impose a one-time loan
47 review fee of one percent which shall be collected by the lender at the
48 time of the loan and paid to the authority.

49 9. Nothing in this section shall preclude a small farmer from

50 participating in any other agricultural program.

51 10. Any rule or portion of a rule, as that term is defined in
52 section 536.010, RSMo, that is created under the authority delegated in
53 this section shall become effective only if it complies with and is
54 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
55 section 536.028, RSMo. This section and chapter 536, RSMo, are
56 nonseverable and if any of the powers vested with the general assembly
57 pursuant to chapter 536, RSMo, to review, to delay the effective date,
58 or to disapprove and annul a rule are subsequently held
59 unconstitutional, then the grant of rulemaking authority and any rule
60 proposed or adopted after August 28, 2006, shall be invalid and void.

348.505. 1. As used in this section, "state tax liability", any state
2 tax liability incurred by a taxpayer under the provisions of chapters
3 143, 147, and 148, RSMo, exclusive of the provisions relating to the
4 withholding of tax as provided for in sections 143.191 to 143.265, RSMo,
5 and related provisions.

6 2. Any eligible lender under the family farm livestock loan
7 program under section 348.500 shall be entitled to receive a tax credit
8 equal to one hundred percent of the amount of interest waived by the
9 lender under section 348.500 on a qualifying loan for the first year of
10 the loan only. The tax credit shall be evidenced by a tax credit
11 certificate issued by the agriculture and small business development
12 authority and may be used to satisfy the state tax liability of the owner
13 of such certificate that becomes due in the tax year in which the
14 interest on a qualified loan is waived by the lender under section
15 348.500. No lender may receive a tax credit under this section unless
16 such person presents a tax credit certificate to the department of
17 revenue for payment of such state tax liability. The amount of the tax
18 credits that may be issued to all eligible lenders claiming tax credits
19 authorized in this section in a fiscal year shall not exceed one hundred
20 fifty thousand dollars.

21 3. The agriculture and small business development authority
22 shall be responsible for the administration and issuance of the
23 certificate of tax credits authorized by this section. The authority shall
24 issue a certificate of tax credit at the request of any lender. Each
25 request shall include a true copy of the loan documents, the name of
26 the lender who is to receive a certificate of tax credit, the type of state

27 tax liability against which the tax credit is to be used, and the amount
28 of the certificate of tax credit to be issued to the lender based on the
29 interest waived by the lender under section 348.500 on the loan for the
30 first year.

31 4. The Missouri department of revenue shall accept a certificate
32 of tax credit in lieu of other payment in such amount as is equal to the
33 lesser of the amount of the tax or the remaining unused amount of the
34 credit as indicated on the certificate of tax credit, and shall indicate on
35 the certificate of tax credit the amount of tax thereby paid and the date
36 of such payment.

37 5. The following provisions shall apply to tax credits authorized
38 under this section:

39 (1) Tax credits claimed in a taxable year may be claimed on a
40 quarterly basis and applied to the estimated quarterly tax of the
41 lender;

42 (2) Any amount of tax credit which exceeds the tax due,
43 including any estimated quarterly taxes paid by the lender under
44 subdivision (1) of this subsection which results in an overpayment of
45 taxes for a taxable year, shall not be refunded but may be carried over
46 to any subsequent taxable year, not to exceed a total of three years for
47 which a tax credit may be taken for a qualified family farm livestock
48 loan;

49 (3) Notwithstanding any provision of law to the contrary, a
50 lender may assign, transfer or sell tax credits authorized under this
51 section, with the new owner of the tax credit receiving the same rights
52 in the tax credit as the lender. For any tax credits assigned,
53 transferred, sold, or otherwise conveyed, a notarized endorsement shall
54 be filed by the lender with the authority specifying the name and
55 address of the new owner of the tax credit and the value of such tax
56 credit; and

57 (4) Notwithstanding any other provision of this section to the
58 contrary, any commercial bank may use tax credits created under this
59 section as provided in section 148.064, RSMo, and receive a net tax
60 credit against taxes actually paid in the amount of the first year's
61 interest on loans made under this section. If such first year tax credits
62 reduce taxes due as provided in section 148.064, RSMo, to zero, the
63 remaining tax credits may be carried over as otherwise provided in this

64 section and utilized as provided in section 148.064, RSMo, in
65 subsequent years.

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